IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 607 of 2004

For Approval and Signature:

HON'BLE MR. JUSTICE M.D. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HARESHBHAI PRABHUDAS MEHTA

Versus

MRUDULKUMAR MAHENDRAKUMAR RAI

Appearance:

1. Criminal Revision Application No. 607 of 2004

MR BC DAVE for Petitioner No. 1

MR PF MAKWANA for Respondent No. 1

MR KP RAVAL ADDL PP for Respondent No. 2

CORAM : HON'BLE MR. JUSTICE M.D. SHAH

Date of decision: 03/05/2005

ORAL JUDGEMENT

Rule. Mr. P.F. Makwana, learned advocate

waives service of Rule on behalf of respondent No. 1 and Mr. K.P. Raval, learned Addl.P.P. waives service of Rule on behalf of respondent No. 2 State. Today, both the learned advocates for the parties have tendered compromise purshis dated 19th April, 2005 signed by both the parties, the same is taken on record.

2. This revision application arise out of the judgement and order dated 11.6.2004 passed by the learned Sessions Judge, Surat in Criminal Appeal No. 36 of 2003, whereby, the learned Appellate Judge has confirmed the judgement and order dated 21.4.2003 passed by the learned JMFC, Surat in Criminal Case No. 1495 of 2001.

3. The respondent No. 1 has lodged a complaint under Section 138 of the Negotiable Instrument Act being Criminal Case No. 1495 of 2001 against the petitioner. In Criminal Case No. 1495 of 2001, the learned JMFC, Surat has convicted the petitioner accused for the offence under Section 138 of the Negotiable Instrument Act and ordered to suffer RI for 1 year and fine of Rs.500-00 and in default of fine, further SI for 6 months.

4. Against the aforesaid judgement and order dated 21.4.2003, the present petitioner has preferred Criminal Appeal No. 36 of 2003 and the learned Sessions Judge, Surat by his judgement and order dated 11.6.2004 was pleased to reject the appeal and confirm the order passed by the learned JMFC, Surat.

5. Heard Mr. Dave, learned advocate for the petitioner, Mr. Makwana, learned advocate for respondent No. 1 and Mr. K.P. Raval, learned Addl.P.P. for the respondent No. 2 State.

6. This Hon'ble Court by order dated 26.8.2004 granted bail to the petitioner on certain terms and conditions. Thereafter, the parties arrived at a compromise in respect of criminal case filed against the petitioner on condition that the petitioner has paid an amount of Rs.70,000=00 to the respondent No. 1 and the respondent No. 1 confirms the receipts of the said amount of Rs.70,000=00 as per the full and final settlement of the amount in dispute. In view of above development in the matter, it was agreed between the parties that the offence punishable under Section 138 of the Negotiable Instrument Act shall be compounded as per the amendment made by Negotiable Instrument (Amendment and Miscellaneous Provisions) Act, 2002 by inserting Section 147. Both, i.e. the learned counsel appearing

for the petitioner and respondent have submitted a compromise purshis showing that now the dispute between the parties were settled and it is stated by the counsel that the amount have been given to the respondent and in view of the compromise terms, the petitioner be acquitted from the offence under Section 138 of the Negotiable Instrument Act.

7. For the foregoing reasons, without expressing anything on the merits of the case, in view of the compromise purshis dated 19.5.2005, the revision application is allowed and the judgement and order dated 11.6.2004 passed by the learned Sessions Judge, Surat in Criminal Appeal No. 36 of 2003 and judgement and order dated 21.4.2003 passed by the learned JMFC, Surat in Criminal Case No. 1495 of 2001 are hereby set aside and the present petitioner is ordered to be acquitted from the offence under Section 138 of the Negotiable Instrument Act. Fine, if any, paid by the petitioner, be refunded to him. Rule is made absolute in each matter in above terms.

(M.D. Shah, J.)
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